

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman et al.
Appl. No.: 10/790,651
Confirm. No.: 9758
Filed: March 1, 2004
Title: METHOD FOR LATERAL
IMPLANTATION OF SPINOUS PROCESS
SPACER

PATENT APPLICATION

Art Unit: 3731
Examiner: Unknown

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 11, 2005.

(Attorney Signature)

Suvashis Bhattacharya, Reg. No. 46,554

Signature Date: February 11, 2005

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR §1.56

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 CFR §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

X Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with MPEP §609.

X The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR §1.98(a)(2), as still required.

— The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Additionally, copies of cited foreign patent documents and non-patent literature, items marked with an asterisk(*), are enclosed in accordance with 37 CFR §1.98(a)(2), as still required. The non-

asterisked items were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).

— The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Additionally, all cited foreign patent documents and non-patent literature are not enclosed because they were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).

— The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 CFR §1.98 is enclosed.

— The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 CFR §1.98 is enclosed, marked by an asterisk (*). The items not asterisked were previously submitted by applicant in a parent application (see Legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, with an Information Disclosure Statement submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).

— If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 CFR §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 CFR §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— ***PTA Statement under 37 CFR §1.704(d).*** Each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

This statement should be considered because:

 X **37 CFR §1.97(b).** This statement qualifies under 37 CFR §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under §1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 CFR §1.114.

— **37 CFR §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 CFR §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e).

-- OR --

- (2) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

— **37 CFR §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 CFR §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;

-- AND --

- (2) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e);

-- AND --

- (3) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

X **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325.

— This Information Disclosure Statement is being filed on the same date as an electronic Information Disclosure Statement. The \$180 fee is being paid herewith; therefore, no fee is due for the electronic Information Disclosure Statement filed on _____ for this application.

Respectfully submitted,

Date: 2/11/05

By: S. Blat
Suvashis Bhattacharya
Reg. No. 46,554

Customer No. 23910
Fliesler Meyer LLP
4 Embarcadero Center, Fourth Floor
San Francisco, California 94111
415/362-3800 Telephone
415/362-2928 Facsimile

FORM PTO-1449

(Substitute)

US DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Attorney Docket Number

KLYC-01056USE

Serial No.

10/790,651

INFORMATION DISCLOSURE CITATION
BY APPLICANT

Applicant

Zucherman, et al.

Filing Date

March 1, 2004

Group Art Unit

3731

U.S. PATENTS

Examiner Initial	Patent Number	Issue Date	Name	Class	Subclass	Filing Date

U.S. PATENT PUBLICATIONS

Examiner Initial	Patent Application Publication Number	Publication Date	Applicant
	1. 2001/0012938 A1	08/09/2001	James F. Zucherman

PENDING U.S. PATENT APPLICATIONS

Examiner Initial	Application Number	Filing Date	Inventor	Petition to Expunge	
				Yes	No

FOREIGN PATENT DOCUMENTS

Examiner Initial	Document Number	Publication Date	Country	Translation	
				Yes	No

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

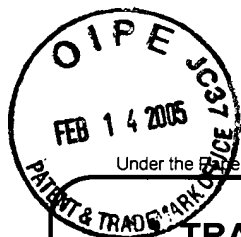
--	--	--

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if references considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

NonAsterisked Items: Copies not submitted because they were submitted in prior application , filed , and relied upon under 35 USC §120.



TFW

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/790,651
	Filing Date	03/01/2004
	First Named Inventor	James R. Zucherman
	Art Unit	3731
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	KLYC-01056USE

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Fliesler Meyer LLP Customer No. 23910	
Signature	<i>S. Bhattacharya</i>	
Printed name	Suvashis Bhattacharya	
Date	2/11/05	Reg. No. 46,554

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature	<i>S. Bhattacharya</i>	
Typed or printed name	Suvashis Bhattacharya	Date 2/11/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.